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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWARD HENDRY BAKER,
BRYN JAMES BALCOMBE, and HENRY BARCZYNSKI

Appeal 2010-000337
Application 09/623,439
Technology Center 2400

Before JOHN C. MARTIN, THOMAS S. HAHN, and
CARL W. WHITEHEAD, JR., Administrative Patent Judges.

HAHN, Administrative Patent Judge.

DECISION ON APPEAL¹

Appellants invoke our review under 35 U.S.C. § 134(a) from the final rejection of claims 1-12 and 18-20. An oral hearing was held on October 12, 2010. We have jurisdiction under 35 U.S.C. § 6(b). We reverse the Examiner's rejection of these claims.

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants claim a system and method for transmitting video signals and selecting receivers. The signals are transmitted from a vehicle moving on a race track, and a position detector identifies the position of the vehicle in order to select an available receiver.² Claim 1 is illustrative:

1. A system for providing continuous reception of a video signal from an on board camera in a mobile object as it moves around a race track comprising:

an on board video camera on the mobile object for generating a video signal and a transmitter provided on the mobile object for transmitting said video signal from the mobile object on a first carrier frequency;

first and second receivers that each receive the transmitted video signal on said first carrier frequency, said first and second receivers having at least partially overlapping detection areas and being located at spaced apart locations about the race track;

a position detector for generating a position signal indicative of the position of said mobile object using indications other than parameters of the received video signal and carrier as the mobile object moves around the race track; and

a controller located other than in the mobile object for selecting and outputting the video signal received by the first of the first and second receivers in response to the position signal and for thereafter selecting and outputting the video signal received by the second of the first and second receivers in response to change in the position signal as the mobile object moves around the track.

² See generally Spec. 6:15-18; 7:8-14; 9:5-10:5; 11:14-12:11; 17:11-19; Figs. 1, 2, 4, 5, 6A, 6B.

APPELLANTS' CONTENTIONS

Appellants contend, *inter alia*, that the Examiner erred in rejecting claims 1-12 and 18-20 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Yasuyuki, JP 60-246190,³ and Appellants' Admitted Prior Art (AAPA), citing Specification pages 1, 2, 9, 15, and 17, because:

- (A) Appealed independent apparatus claim 1 covers a position detector that generates a position indication signal for a mobile object having an on board camera by using information other than received video and carrier signals (App. Br. 7).
- (B) Appealed independent claim 12 recites a method that also determines the mobile object location using information other than received video and carrier signals (*id.*).
- (C) The Examiner erred in finding that the Yasuyuki base station 7 corresponds to the position detector recited in claim 1, because the Yasuyuki base station 7 "makes a decision to switch between receive[r]s on the basis of the received signal strength, and so Yasuyuki's base station 7 does not correspond in any way, shape or form to the claimed position detector" (App. Br. 8).

³ We refer to this document as "Yasuyuki" to be consistent with the Examiner's Answer, the Appeal Brief, and the Reply Brief.

ISSUE

Whether the Examiner erred in rejecting claims 1-12 and 18-20 as being obvious because Yasuyuki fails to teach or suggest a position detector that generates a position indication signal for a mobile object using information other than received video and carrier signals?

FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

1. We find claim 1 recites a system comprising “a position detector for generating a position signal indicative of the position of said mobile object using indications other than parameters of the received video signal and carrier”
2. We find claim 12 recites a method including a step of “determining the location of the moving mobile object on the race track using indications other than signal parameters of the received video signal or its carrier”
3. Yasuyuki at Figures 1 and 2 describes a video signal switching system for providing continuous reception at multiple receivers 1-5 of a video signal transmitted from a mobile object 6 with an on board camera as the mobile object 6 moves around a race track (p. 3, l. 28 – p. 4, l. 20; *accord* Ans. 3).
4. We find that Yasuyuki also describes having all receivers 1-5 output received signals to a base station 7 (p. 4, ll. 6, 7, 21-25), and the base station 7 selects a signal to process based on criteria “using only the video signals” (p. 5, l. 29 – p. 6, l. 2).

ANALYSIS

Claims 1-6, 8, 9, 12, and 18-20

The Examiner does not dispute the Appellants' first and second contentions (A, B) above that independent claims 1 and 12 recite a mobile object position detector that uses information other than received video or carrier signals. We agree with Appellants as to these two contentions (FF 1, 2).

Appellants separately argue claim 1 (App. Br. 7-10).

Without citation to a Yasuyuki disclosure, the Examiner finds Yasuyuki teaches a "position detector 7 [i.e., base station 7, that] determines the position of the mobile object 6 based on information provided by a timing system 13 of the race track (e.g.[.] between μ 1 and μ 2)" (Ans. 4). From our review of Yasuyuki, we are unable to identify any disclosures or suggestions that timing system 13 (i.e., writing clock generator circuit 13) is used to determine any position indication, much less a position indication for mobile object 6.

Alternatively, the Examiner indicates that:

Figure 2 and page 4, lines 9-15 of the Yasuyuki et al translation states that the controller selects the receivers 2 and 3 based on the carrier electric field being delivered to the receivers. As an illustrative example, Yasuyuki et al discloses at position A, receiver 2 is selected in response to the weak carrier electric field being delivered to receiver 3. Conversely, after the mobile object changes to position B, receiver 3 is selected in response to the weak carrier electric field being delivered to receiver 2.

(Ans. 6.) Based on our review of Yasuyuki, we adopt the Examiner's finding that Yasuyuki discloses that received carrier electric field strengths

are utilized to select between receivers. We further find that Yasuyuki describes having multiple receivers output received signals to a base station 7, and the base station 7 selects a signal to process based on criteria “using only the video signals” (FF 4).

Accordingly, we agree with the Appellants that the Examiner erred in finding that the Yasuyuki base station 7 corresponds to the position detector recited in claim 1, because the Yasuyuki base station 7 “makes a decision to switch between receive[r]s on the basis of the received signal strength, and so Yasuyuki’s base station 7 does not correspond in any way, shape or form to the claimed position detector” (App. Br. 8).

We do not find that the Examiner’s citation to AAPA cures the Yasuyuki deficiency with respect to the recited position detector. The Examiner indicates that:

Although Yasuyuki et al discloses a position detector 7, it is noted Yasuyuki et al differs from the present invention in that it fails to particularly disclose any details of the position signal regarding the arrangement of antennas as specified in claims 1-12 and 18-20. AAPA however, on page 9, lines 5-17, page 15, lines 5-8, and page 17, lines 5-7, for examples, teaches the concept of such well known generation of a position signal using indications (e.g.[.] GPS) other than parameters of the received video signal and carrier; and through the set up of helical antennas at the proper height from the ground.

(Ans. 5) We do not find that Yasuyuki teaches a position detector, but instead teaches a base station 7 that selects a receiver based on criteria using only received video signals (FF 4).

For the foregoing reasons, we find the Examiner erred in rejecting independent claims 1 and 12. Consequently, the Examiner also erred with respect to the rejection of the dependent claims 2-6, 8, 9, and 18-20, because dependent claims are nonobvious if the independent claim from which they depend is nonobvious. *In re Fine*, 837 F.2d 1071, 1076 (Fed. Cir. 1988).

Claim 7

Appellants separately argue claim 7 that depends from base independent claim 1 (App. Br. 10). Without reaching Appellants' argument, we agree with Appellants that the Examiner erred in rejecting dependent claim 7. *See Fine*, 837 F.2d at 1076.

Claims 10 and 11

Appellants separately argue claims 10 and 11 that depend from base independent claim 1 (App. Br. 11). Without reaching Appellants' arguments, we agree with Appellants that the Examiner erred in rejecting dependent claims 10 and 11. *See Fine*, 837 F.2d at 1076.

CONCLUSION

Appellants established that the Examiner erred in rejecting claims 1-12 and 18-20 as being obvious under 35 U.S.C. § 103(a) because Yasuyuki fails to teach or suggest a position detector that generates a position indication signal for a mobile object using information other than received video and carrier signals.

DECISION

The Examiner's decision rejecting claims 1-12 and 18-20 is reversed.

REVERSED

KIS

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